

AMENDED IN ASSEMBLY MAY 5, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 662

Introduced by Assembly Member Dutra
(Coauthor: Assembly Member Dymally)

February 19, 2003

~~An act relating to special education.~~ *An act to amend Section 60643 of, and to add Sections 56353, 56354, 56355, 56355.5, and 60314 to, the Education Code, relating to special education.*

LEGISLATIVE COUNSEL'S DIGEST

AB 662, as amended, Dutra. Special education: blind and visually impaired pupils.

~~Existing~~

(1) *Existing* law requires educational agencies to develop an individualized education program for pupils with exceptional needs, including, but not limited to, visually impaired pupils, and requires that a functional vision assessment be conducted to determine the appropriate reading medium for the pupil and an assessment of braille skills. Existing law requires the Superintendent of Public Instruction to form an advisory task force to develop standards for mastery of the braille code by pupils and to report to the Governor and the Legislature by June 30, 2004. ~~Existing law provides for the adoption and selection of quality instructional materials for use in elementary and secondary schools, and imposes requirements upon publishers and manufacturers, including, but not limited to, the requirement that they provide to the state, at no cost, computer files or other electronic versions of each state-adopted literary title and the right to transcribe, reproduce,~~

~~modify, and distribute the material in braille, large print, recordings, or other specialized accessible media for use by pupils with visual disabilities.~~

This bill would make legislative findings and declarations concerning the ability of blind and visually impaired pupils to have the same opportunity as any other pupil to acquire the highest quality education possible and the various educational related problems that adversely impact the ability of these pupils to receive the highest quality education. The bill would declare the intent of the Legislature to address those problems.

The bill would establish within the State Department of Education the Advisory Task Force for the Education of Blind and Visually Impaired Pupils, with prescribed membership appointed by the Superintendent of Public Instruction, to provide the Legislature, the Governor, and others with the input necessary to formulate the most effective policy for the education of blind and visually impaired pupils. The bill would declare that the task force shall be funded by private and federal funds.

The bill would provide that due to certain unique challenges faced by blind and visually impaired pupils, special settings may, under certain circumstances, provide a more effective educational environment for a blind or visually impaired pupil than the mainstream setting.

The bill would require the State Department of Education to establish, as specified, a mandatory data system for the submission and collection of data regarding services provided by local education agencies to blind or visually impaired pupils and would specify the data that is required to be provided by each local education agency. By requiring this new reporting by school districts, the bill would impose a state-mandated local program.

This bill would require the department to provide outreach and technical assistance to parents, teachers, and administrators concerning issues relating to the instruction of visually impaired, blind, and deaf-blind pupils.

(2) Existing law provides for the adoption of instructional materials by the State Board of Education and imposes various requirements upon publishers and manufacturers of instructional materials. Existing law authorizes the State Board of Education to purchase or contract for the development of adopted textbooks and other state adopted print materials in media accessible to pupils with visual impairments.

This bill would require the State Board of Education and the State Department of Education to ensure that all contracts with publishers

and providers of technology-based learning tools require accommodations for blind or visually impaired pupils.

(3) Existing law prohibits test publishers to provide designated statewide tests for use in the public schools unless the publisher enters into a written contract with the State Department of Education. Existing law requires these contracts to contain certain matters.

This bill would also require the contracts to stipulate that the publishers will provide the test materials in formats accessible to pupils with visual disabilities.

(4) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed \$1,000,000 statewide and other procedures for claims whose statewide costs exceed \$1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: ~~no~~ yes. State-mandated local program: ~~no~~ yes.

The people of the State of California do enact as follows:

1 SECTION 1. This act shall be known and may be cited as the
2 Blind and Visually Impaired Pupil Education Improvement Act of
3 2003.

4 SEC. 2. The Legislature finds and declares all of the
5 following:

6 (a) A blind or visually impaired pupil should have the same
7 opportunity as any other pupil to acquire the highest quality
8 education possible.

9 (b) There are a number of problems specific to the educational
10 needs of blind and visually impaired pupils that adversely impact
11 the ability of these pupils to receive the highest quality education.
12 Many of these problems, along with solutions, were identified in
13 a 2002 report by the California Blindness Advisory Task Force,
14 appointed by the Superintendent of Public Instruction, entitled "A
15 Future View: Quality Education Of All Students Who Are Blind



1 and Visually Impaired.” These problems include, but are not
2 limited to, all of the following:

3 (1) Teachers of the ~~blind and~~ visually impaired have
4 extraordinarily high caseloads, far in excess of *those provided for*
5 *in the recommended* guidelines promulgated by the State
6 Department of Education *pursuant to Section 56136 of the*
7 *Education Code*.

8 (2) There exists a shortage of teachers of the ~~blind and~~ visually
9 impaired, as well as a shortage of *funding for* postsecondary
10 programs that provide specific training in this field.

11 (3) ~~School district~~ *Local education agency* personnel,
12 including administrators ~~and~~, classroom teachers, ~~lack the~~
13 ~~knowledge and teachers of the visually impaired, frequently have~~
14 *insufficient knowledge, due to lack of personnel development*
15 *training*, to adequately address the needs of their blind and visually
16 impaired pupil population, especially those with multiple
17 disabilities.

18 (4) Many ~~school districts~~ *local education agencies*, in both
19 urban and rural areas, are not providing ~~braille instruction~~ *reading*
20 *media assessments in accordance with Section 56352 of the*
21 *Education Code. The lack of these assessments, along with a*
22 *shortage of credentialed teachers qualified to teach braille, has*
23 *created a situation in which braille instruction is not being*
24 *provided to many pupils whose visual acuity is such that braille is*
25 *clearly their most appropriate mode of reading reading mode*, thus
26 causing many of these pupils, who should be performing at grade
27 level or above, to lag far behind their sighted ~~counterparts~~ *peers*.

28 (5) Many blind and visually impaired pupils lack ~~access equal~~
29 ~~to that of fully sighted pupils to technology, notwithstanding the~~
30 ~~availability of assistive devices that can equalize this access. equal~~
31 *access to printed materials, including, but limited to, textbooks*
32 *and technology*.

33 (6) Testing materials required for use throughout the state are
34 often either unavailable, or not available in a timely manner, in
35 formats accessible to blind and visually impaired pupils.

36 (7) Transition programs are woefully inadequate in their
37 capacity to meet the special needs of blind and visually impaired
38 pupils.

(8) The State Department of Education has little data on the blind and visually impaired pupil population in each school district.

(9) An ongoing mechanism does not exist for the Legislature, the Governor, and the State Department of Education to procure ~~stakeholder input~~ *input from educators, administrators, pupils, and organizations representing the blind and visually impaired* on the needs of blind and visually impaired pupils and the statutory or regulatory changes required to meet those needs.

(c) It is the intent of the Legislature, in enacting this act, to address the problems set forth in subdivision (b).

SEC. 3. *Section 56353 is added to the Education Code, to read:*

56353. (a) *The Advisory Task Force for the Education of Blind and Visually Impaired Pupils is hereby established within the State Department of Education in order to ensure that the Legislature, the Governor, and the other appropriate parties are provided with the input necessary to formulate the most effective policy for the education of blind and visually impaired pupils.*

(b) *The Superintendent of Public Instruction shall appoint the members of the task force, who shall serve at the pleasure of the superintendent. The task force members shall include a blind or visually impaired pupil, and shall include, but need not be limited to, representatives of all of the following:*

(1) *The California School for the Blind.*

(2) *Teachers of the visually impaired, including teachers of orientation and mobility.*

(3) *Orientation and mobility specialists.*

(4) *School administrators.*

(5) *Parents of blind and visually impaired pupils.*

(6) *Advocacy groups representing blind and visually impaired consumers.*

(7) *The State Department of Education.*

(8) *The Department of Rehabilitation.*

(9) *Private agencies certified by the department to provide services to children with visual impairments.*

(10) *University training programs for teachers of the visually impaired.*

(11) *The Commission on Teacher Credentialing.*

1 (c) The task force members shall serve without compensation.
2 The task force shall meet on at least a quarterly basis. The meetings
3 of the task force shall be conducted by the chairperson of the task
4 force, who shall be selected by the task force members from among
5 its membership.

6 (d) The task force shall provide recommendations to the
7 Legislature, the Governor, the department, and other appropriate
8 parties, on the educational needs of blind and visually impaired
9 pupils and any statutory or regulatory changes necessary to meet
10 those needs.

11 (e) The task force shall be funded by private and federal funds.

12 SEC. 4. Section 56354 is added to the Education Code, to
13 read:

14 56354. (a) Due to the unique challenges specified in
15 subdivision (b), special settings, including the California School
16 for the Blind and public school programs, may, under certain
17 circumstances, either as a long-term or short-term solution,
18 provide a more effective educational environment for a blind or
19 visually impaired pupil than the mainstream setting.

20 (b) Among the many factors that contribute to the unique
21 educational needs of, and problems faced by, blind and visually
22 impaired pupils are all of the following:

23 (1) The need for instruction in braille, as well as the need for
24 materials to be put into braille, large print, and other accessible
25 formats.

26 (2) The need for orientation and mobility instruction.

27 (3) The need for assistive technology.

28 (4) Acquisition of appropriate socialization and other
29 interpersonal skills.

30 (5) Blind and visually impaired pupils are not being taught
31 communication skills, including, but not limited to, handwriting
32 skills such as their name and basic numbers.

33 (6) The high percentage of pupils with visual impairments who
34 have other disabilities.

35 (7) Difficulties faced by rural local education agencies in
36 meeting the needs of this population.

37 SEC. 5. Section 56355 is added to the Education Code, to
38 read:

39 56355. (a) The State Department of Education shall
40 establish, as part of the California Special Education

1 *Management System, a mandatory data system for the submission*
2 *and collection of data regarding services provided by every local*
3 *education agency to pupils who are blind or visually impaired.*

4 *(b) The data to be provided by each local education agency*
5 *shall include, but need not be limited to, all of the following:*

6 *(1) The number of teachers of the visually impaired categorized*
7 *on the basis of credentialed and noncredentialed teachers.*

8 *(2) The number and diagnosis of functionally blind and low*
9 *vision pupils.*

10 *(3) The number of orientation and mobility specialists used by*
11 *the district.*

12 *(4) The number of braille transcribers or certified media*
13 *specialists used by the local education agency, including, but not*
14 *limited to, teachers aids, who are performing these functions.*

15 *(5) The average caseload of teachers of the visually impaired,*
16 *orientation and mobility specialists, transcribers, and media*
17 *specialists.*

18 *(6) The percentage of blind and visually impaired pupils*
19 *receiving braille instruction.*

20 *(7) The steps being taken by the local education agency to*
21 *ensure that visually impaired pupils are provided with adequate*
22 *reading media.*

23 *SEC. 6. Section 56355.5 is added to the Education Code, to*
24 *read:*

25 *56355.5. The department using existing consultants and in*
26 *collaboration with the California School for the Blind, shall*
27 *provide outreach and technical assistance to parents, teachers,*
28 *and administrators throughout the state concerning issues relating*
29 *to the instruction of visually impaired, blind, and deaf-blind*
30 *pupils.*

31 *SEC. 7. Section 60314 is added to the Education Code, to*
32 *read:*

33 *60314. The state board and the State Department of*
34 *Education shall ensure that all contracts with publishers and*
35 *providers of technology-based learning tools require*
36 *accommodations for pupils who are blind or visually impaired.*

37 *SEC. 8. Section 60643 of the Education Code is amended to*
38 *read:*

39 *60643. (a) To be eligible for consideration under Section*
40 *60642 or 60642.5 by the State Board of Education, test publishers*

1 shall agree in writing each year to meet the following
2 requirements, as applicable, if selected:

3 (1) Enter into an agreement, pursuant to subdivision (e) or (f),
4 with the State Department of Education by October 15.

5 (2) With respect to selection under Section 60642.5, align the
6 standards-based achievement test provided for in Section 60642.5
7 to the academically rigorous content and performance standards
8 adopted by the State Board of Education.

9 (3) Comply with subdivisions (c) and (d) of Section 60645.

10 (4) Provide valid and reliable individual pupil scores only in
11 the content areas specified in subdivision (c) of Section 60642 to
12 parents or guardians, teachers, and school administrators.

13 (5) Provide valid and reliable aggregate scores only in the
14 content areas specified in subdivision (c) of Section 60642 to
15 school districts and county boards of education in all of the
16 following forms and formats:

17 (A) Grade level.

18 (B) School level.

19 (C) District level.

20 (D) Countywide.

21 (E) Statewide.

22 (F) Comparison of statewide scores relative to other states.

23 (6) Provide disaggregated scores, based on
24 limited-English-proficient status and
25 nonlimited-English-proficient status. For purposes of this section,
26 pupils with “nonlimited-English-proficient status” shall include
27 the total of those pupils who are English-only pupils,
28 fluent-English-proficient pupils, and redesignated
29 fluent-English-proficient pupils. These scores shall be provided to
30 school districts and county boards of education in the same forms
31 and formats listed in paragraph (5).

32 (7) Provide disaggregated scores by pupil gender and provide
33 disaggregated scores based on whether pupils are economically
34 disadvantaged or not. These disaggregated scores shall be in the
35 same forms and formats as listed in paragraph (5). In any one year,
36 the disaggregation shall entail information already being collected
37 by school districts, county offices of education, or charter schools.

38 (8) Provide disaggregated scores for pupils who have
39 individualized education programs and have enrolled in special
40 education, to the extent required by federal law. These scores shall

1 be provided in the same forms and formats listed in paragraph (5).
2 This section may not be construed to exclude the scores of special
3 education pupils from any state or federal accountability system.

4 (9) Provide information listed in paragraphs (5), (6), (7), and
5 (8) to the State Board of Education and the State Department of
6 Education in the medium requested by each entity, respectively.

7 (b) It is the intent of the Legislature that the publisher work
8 with the Superintendent of Public Instruction and the State Board
9 of Education in developing a methodology to disaggregate
10 statewide scores as required in paragraphs (6) and (7) of
11 subdivision (a), and in determining which variable indicated on the
12 STAR testing document shall serve as a proxy for “economically
13 disadvantaged” status pursuant to paragraph (7).

14 (c) Access to any information about individual pupils or their
15 families shall be granted to the publisher only for purposes of
16 correctly associating test results with the pupils who produced
17 those results or for reporting and disaggregating test results as
18 required by this section. School districts are prohibited from
19 excluding a pupil from the test if a parent or parents decline to
20 disclose income. Nothing in this chapter shall be construed to
21 abridge or deny rights to confidentiality contained in the Family
22 Educational Rights and Privacy Act of 1974 (20 U.S.C. Sec.
23 1232g) or other applicable provisions of state and federal law that
24 protect the confidentiality of information collected by educational
25 institutions.

26 (d) Notwithstanding any other provision of law, the publisher
27 of the achievement test designated pursuant to Section 60642, the
28 publisher of the standards-based achievement test provided for in
29 Section 60642.5, or any contractor under subdivision (f) shall
30 comply with all of the conditions and requirements enumerated in
31 subdivision (a), as applicable, to the satisfaction of the State Board
32 of Education.

33 (e) (1) A publisher may not provide a test described in Section
34 60642, 60642.5, or 60650 or in subdivision (f) of Section 60640
35 for use in California public schools unless the publisher enters into
36 a written contract with the State Department of Education as set
37 forth in this subdivision.

38 (2) The State Department of Education shall develop, and the
39 State Board of Education shall approve, a contract to be entered

1 into with any publisher pursuant to paragraph (1). The department
2 may develop the contract through negotiations with the publisher.

3 (3) For purposes of the contracts authorized pursuant to this
4 subdivision, the State Department of Education is exempt from the
5 requirements of Part 2 (commencing with Section 10100) of
6 Division 2 of the Public Contract Code and from the requirements
7 of Article 6 (commencing with Section 999) of Chapter 6 of
8 Division 4 of the Military and Veterans Code.

9 (4) The contracts shall include provisions for progress
10 payments to the publisher for work performed or costs incurred in
11 the performance of the contract. Not less than 10 percent of the
12 amount budgeted for each separate and distinct component task
13 provided for in each contract shall be withheld pending final
14 completion of all component tasks by that publisher. The total
15 amount withheld pending final completion shall not exceed 10
16 percent of the total contract price.

17 (5) The contracts shall require liquidated damages to be paid by
18 the publisher in the amount of up to 10 percent of the total cost of
19 the contract for any component task that the publisher through its
20 own fault or that of its subcontractors fails to substantially perform
21 by the date specified in the agreement.

22 (6) The contracts shall establish the process and criteria by
23 which the successful completion of each component task shall be
24 recommended by the State Department of Education and approved
25 by the State Board of Education.

26 (7) The publishers shall submit, as part of the contract
27 negotiation process, a proposed budget and invoice schedule, that
28 includes a detailed listing of the costs for each component task and
29 the expected date of the invoice for each completed component
30 task.

31 (8) The contracts shall specify the following component tasks,
32 as applicable, that are separate and distinct:

33 (A) Development of new tests or test items as required by
34 paragraph (2) of subdivision (a).

35 (B) Test materials production or publication.

36 (C) Delivery of test materials to school districts.

37 (D) Test processing, scoring, and analyses.

38 (E) Reporting of test results to the school districts, including,
39 but not limited to, all reports specified in this section.



1 (F) Reporting of test results to the State Department of
2 Education, including, but not limited to, the electronic files
3 required pursuant to this section.

4 (G) All other analyses or reports required by the
5 Superintendent of Public Instruction to meet the requirements of
6 state and federal law and set forth in the agreement.

7 (9) *The contracts shall require the publishers to provide the test*
8 *materials in formats accessible to pupils with visual disabilities,*
9 *including, but not limited to, braille and large print.*

10 (10) The contracts shall specify the specific reports and data
11 files, if any, that are to be provided to school districts by the
12 publisher and the number of copies of each report or file to be
13 provided.

14 ~~(10)~~

15 (11) The contracts shall specify the means by which any
16 delivery date for materials to each school district shall be verified
17 by the publisher and the school district.

18 ~~(11)~~

19 (12) School districts may negotiate a separate agreement with
20 the publisher for any additional materials or services not within the
21 contracts specified in this subdivision, including, but not limited
22 to, the administration of the tests to pupils in grade levels other
23 than grades 2 to 11, inclusive. Any separate agreement is not
24 within the scope of the contract specified in this subdivision.

25 (f) The State Department of Education, with approval of the
26 State Board of Education, may enter into a separate contract for the
27 development or administration of any test authorized pursuant to
28 this part, including, but not limited to, item development,
29 coordination of tests, assemblage of tests or test items, scoring, or
30 reporting. The liquidated damages provision set forth in paragraph
31 (5) of subdivision (e) shall apply to any contract entered into
32 pursuant to this subdivision.

33 *SEC. 9. Notwithstanding Section 17610 of the Government*
34 *Code, if the Commission on State Mandates determines that this*
35 *act contains costs mandated by the state, reimbursement to local*
36 *agencies and school districts for those costs shall be made*
37 *pursuant to Part 7 (commencing with Section 17500) of Division*
38 *4 of Title 2 of the Government Code. If the statewide cost of the*
39 *claim for reimbursement does not exceed one million dollars*

- 1 *(\$1,000,000), reimbursement shall be made from the State*
- 2 *Mandates Claims Fund.*

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